

JOINT RULES RESOLUTION ON PERFORMANCE NOTES

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions in the joint Legislative Rules that govern the use of performance notes on proposed legislation.

Highlighted Provisions:

This resolution:

- ▶ provides definitions;
- ▶ clarifies that performance notes are published with the legislation, rather than being attached to the legislation;
- ▶ provides that a performance note, like a fiscal note, is not an official part of the legislation; and
- ▶ makes technical and organizational modifications.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-404

Be it resolved by the Legislature of the state of Utah:

Section 1. **JR4-2-404** is amended to read:

JR4-2-404. Performance Review Notes -- Review of Performance Measures.

(1) As used in this section:

(a) (i) "New agency" means:

(A) a state governmental entity that did not previously exist;

(B) a governmental entity that requires a new appropriation for new funding;

(C) a governmental entity that is modified by legislation to add significant services or benefits that were not previously offered by the governmental entity; or

(D) a governmental entity that is modified by legislation to substantially expand the

scope of individuals or entities that are entitled to receive the services or benefits offered by the governmental entity.

(ii) "New agency" does not mean a governmental entity that has been renamed or moved to another organizational position within that branch of government unless the governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).

(b) (i) "New program" means a program:

(A) created by statute that did not previously exist;

(B) that requires a new appropriation or an increased appropriation for the purpose of adding significant services or benefits that were not previously offered;

(C) that is modified by legislation to add significant services or benefits that were not previously offered by the program; or

(D) that is modified by legislation to substantially expand the scope of individuals or entities that are entitled to receive the services or benefits offered by the program.

(ii) "New program" does not mean a program that has been renamed or moved to another organizational position within that branch of government unless the governmental entity meets the criteria in Subsection (1)(b)(i)(C) or (D).

(c) "Performance note" means the statement of performance measures and information that may be required to be printed with certain legislation according to the requirements of this rule.

(2) (a) When the Legislative Fiscal Analyst receives the electronic copy of approved legislation from the Office of Legislative Research and General Counsel, the Legislative Fiscal Analyst shall, within three business days, review and analyze the legislation to determine if it creates a new program or a new agency.

(b) If the Legislative Fiscal Analyst determines that the legislation creates a new agency or a new program, the Legislative Fiscal Analyst shall:

(i) notify the sponsor of the legislation that the legislation qualifies for a performance note;

(ii) notify the governmental entity that will supervise the new agency, or the governmental entity that will administer the new program, that the governmental entity must submit a performance note that meets the ~~[requirement]~~ requirements of Subsection ~~[(4)]~~ (6) to the Legislative Fiscal Analyst within three business days; and

(iii) prepare a ~~[statement to be attached to the legislation containing]~~ notice that contains the information required by Subsection (2)(c) and print the notice with the legislation.

(c) The ~~[statement]~~ notice shall:

(i) disclose that a performance note is required, disclose the name of the governmental entity required to provide the performance note, and disclose the date on which the performance note is to be provided by the governmental entity; or

(ii) disclose that a performance note is not required because the legislation does not create a new program or new agency.

(d) (i) The Legislative Fiscal Analyst may extend the deadline for the governmental entity's submission of the performance note if:

(A) the governmental entity requests that the deadline be extended to a date certain in writing before the performance note is due; and

(B) the sponsor of the legislation agrees to extend the deadline.

(ii) If the deadline is extended, the Legislative Fiscal Analyst shall indicate the extended deadline ~~[on the legislation]~~ as part of the performance note that is ultimately printed with the legislation.

(3) If the sponsor of the legislation disputes the Legislative Fiscal Analyst's determination as to whether a performance note is required, the sponsor shall contact the Legislative Fiscal Analyst to discuss that disagreement and provide evidence, data, or other information to support a different determination.

~~[(c)-(i)]~~ (4) (a) When a governmental entity provides a performance note to the Legislative Fiscal Analyst, the sponsor of the legislation shall either approve the release of the performance note or reject the performance note.

~~[(ii)]~~ (b) If the sponsor approves the performance note provided by the governmental entity, the Legislative Fiscal Analyst shall ~~[attach]~~ print the performance note ~~[to]~~ with the legislation.

~~[(iii)]~~ (c) If the sponsor rejects the performance note provided by the governmental entity, the Legislative Fiscal Analyst shall ~~[attach]~~ print the following ~~[to]~~ with the legislation:

~~[(A)]~~ (i) the performance note provided by the governmental entity, with a notation that the sponsor rejected the submission; and

~~[(B)]~~ (ii) if the sponsor provides an alternative performance note to the Legislative

Fiscal Analyst within three business days, the alternative performance note, with a notation that the sponsor provided the alternative note due to the sponsor's rejection of the governmental entity's submission.

~~[(f)]~~ (5) If the governmental entity does not provide a performance note by the submission deadline, the Legislative Fiscal Analyst shall ~~[attach]~~ print a performance note ~~[to]~~ with the legislation that indicates only that the governmental entity did not submit performance measures by the submission deadline.

~~[(3) If the sponsor of the legislation disputes the Legislative Fiscal Analyst's determination as to whether a performance note is required, the sponsor shall contact the Legislative Fiscal Analyst to discuss that disagreement and provide evidence, data, or other information to support a different determination.]~~

~~[(4)]~~ (6) A performance note shall contain the following information:

- (a) the name of the governmental entity submitting the performance note, as applicable;
- (b) the names and titles of the individuals who prepared the performance note; and
- (c) a statement of performance measures that:
 - (i) explains the purpose and duties of the new program or agency;
 - (ii) lists the services that will be provided by the new program or agency;
 - (iii) lists the goals and proposed impacts that the new program or agency intends to achieve within one, two, and three years;
 - (iv) lists the resources and steps required to achieve the goals and proposed impacts;
 - (v) lists the benchmarks that the new program or agency will monitor to measure progress toward the goals and outcome;
 - (vi) lists the performance measures that will be used to evaluate progress toward the goals and proposed impacts; and
 - (vii) states how information on progress and performance measures will be gathered in a reliable, objective fashion.

(7) The performance note is not an official part of the legislation.

~~[(5)]~~ (8) After legislation that creates a new program or a new agency has gone into effect, the Legislative Auditor General shall, subject to the procedures and requirements of Section 36-12-15:

- (a) provide an outline of best practices to the governmental entity that administers the

126 new program or to the new agency;
127 (b) include in the outline information to assist that governmental entity or new agency
128 with the creation of:
129 (i) policies that promote best practices;
130 (ii) performance measures; and
131 (iii) data collection procedures; and
132 (c) for a new program or a new agency that was created by legislation where the
133 governmental entity failed to provide a performance note:
134 (i) provide a notice to the governmental entity that administers the new program or to
135 the new agency that the governmental entity or agency is required to submit a performance note
136 to the Legislative Auditor General within 30 calendar days of the date of the notice;
137 (ii) retain the performance note that is received from the governmental entity or new
138 agency and forward a copy of the note to:
139 (A) the primary sponsor of the legislation;
140 (B) the opposite house sponsor of the legislation;
141 (C) the President of the Senate and Speaker of the House; and
142 (D) the Senate minority leader and House minority leader; and
143 (iii) if the governmental entity or new agency fails to provide a performance review
144 note within the required deadline, provide notice to those listed in Subsection [~~(5)~~] (8)(c)(ii)
145 that a performance note was requested from, but was not received from, the governmental
146 entity that administers the new program or the new agency.
147 [~~(6)~~] (9) The Legislative Auditor General may use the performance note in its review
148 of new programs and agencies under Section 36-12-15.